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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,545	02/21/2001	Michael Orr	P-3059-US	5618
49443	7590	09/26/2005	EXAMINER	
PEARL COHEN ZEDEK, LLP 10 ROCKEFELLER PLAZA SUITE 1001 NEW YORK, NY 10020			REFAI, RAMSEY	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,545

Applicant(s)

ORR ET AL.

Examiner

Ramsey Refai

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 22-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Responsive to Amendment received June 6, 2005. Claims 1-20 have been amended. Claims 21-32 are new. Claims 1-32 are now presented for examination.

Election/Restrictions

1. Newly submitted claim 22-32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Newly presented claims 22-32 are directed to a system and method for enhancing perceived throughput between a server and a client wherein a response, comprising a page description and a list of objects, is modified and transferred to the client. These claims differ in scope to the originally presented claims 1-21, which are directed to a system and method for enhancing perceived throughput between a server and a client utilizing *a predictive unit to predict requests based on the server's response to a client request*.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Claims 22-32 are withdrawn from consideration.

Claims 1-21 remain pending examination.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Newly added limitations *“wherein the predictive requests are sent directly to the server”*, and *“partial response to a client before a full response from said server has been received”* are not described in the specification to convey to one skilled in the art that the inventor(s) at the time the application was filed, had possession of the claimed invention.

Furthermore, the limitation *“wherein the predictive requests are sent directly to the server”* appears to be a negative limitation used to overcome the Kasriel et al reference and therefore fails to comply with the written description requirement. Regarding negative limitations, the MPEP states:

2173.05(i) Negative Limitations

“...
Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. ... The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation, which does not have basis in the original disclosure, should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.
...”

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Kasriel et al (U.S. Patent No. 6,721,780).

6. As per claim 1, Kasriel et al teach a system for enhancing perceived throughput between a client and a server, said system comprising a predictive unit adapted to receive a first response from the server and to generate a predictive request based on information contained within the first response, wherein the predictive request is sent directly to the server. **(Figure 1, column 4, lines 20-33).**

7. As per claim 2, Kasriel et al a client agent unit adapted to communicate with said predictive unit and to receive a predictive response corresponding to the predictive request **(column 5, lines 55-66, column 6, lines 24-35).**

8. As per claim 3, Kasriel et al teach the client agent is adapted to forward a received predictive response to the client **(column 5, lines 64-66).**

9. As per claim 4, Kasriel et al teach the client agent unit is adapted to forward a received predictive response upon receiving a request for the response from the client (**column 5, lines 64-66**).

10. As per claim 5, Kasriel et al teach wherein the client agent unit receives a predictive response after said storage unit forwards the client's request for the response to said predictive unit (**column 5, lines 57-66**).

11. As per claim 6, Kasriel et al teach wherein the predictive response is first received by the predictive unit and forwarded to said client agent unit (**column 4, lines 55-67, column 5, lines 15-17, 57-60**).

12. As per claim 7, Kasriel et al teach wherein said client unit receives requests from said client and forwards the requests to said predictive unit using encapsulation (**column 4, lines 55-67**).

13. As per claim 8, Kasriel et al teach wherein data transmitted between said client agent unit and said predictive unit undergoes a data processing step selected from a group consisting of data compression, partial information transfer, protocol conversion, and data packet combining (**column 5, lines 46-55, column 6, lines 44-55**).

14. As per claim 9, Kasriel et al teach wherein the client agent unit is adapted to transmit a partial response to a client before a full response from server has been received (**column 5, lines 60-66**).

15. As per claim 10, Kasriel et al teach wherein the client agent unit is adapted to store a response and to forward the response to the client upon receiving a re-load request for the response from the client (**column 4, lines 58-67, column 5, lines 64-66**).

16. As per claim 11, Kasriel teach A method for enhancing perceived throughput between a server and a client utilizing a predictive unit, said method comprising the predictive unit analyzing the server's response to a request issued by the client, generating a predictive request based on the content of the server's response, and sending said predictive request directly to said server (**Figure 1, column 4, lines 20-33, column 4, lines 22-24**).

17. As per claims 12-20, these claims contain similar limitations as claims 2-10 above, therefore are rejected under the same rationale.

18. As per claim 21, Kasriel et al teach wherein said partial response includes a re-load command (**column 4, lines 58-67, column 5, lines 64-66**).

Response to Arguments

19. Applicant's arguments filed June 6, 2005 have been fully considered but they are not persuasive.

- As initial matter, in the Status of Claims section of the remarks, the Applicant has mistakenly stated that claims 1-9 and 11-20 have been amended. This should have read claims 1-20 have been amended.
- Also in the remarks, the Applicant argues in substance that:
 - a. Kasriel fails to teach analyzing of a first response from a web server
 - b. Kasriel fails to teach how the predictive unit sends predictive requests to a web server.
- In response to argument:
 - a. Examiner respectfully disagrees. Kasriel does teach a pre-download device 140 that intercepts requests from web client 110 and responses from web server 130. Although Kasriel fails to explicitly use the term analyze, the pre-download device 3 does analyze the requests and responses and determines which network objects are most likely to be requested by the web client (**see column 4, lines 20-33**). Therefore, Kasriel meets the scope of the claimed limitation.
 - b. Examiner respectfully disagrees. Kasriel clearly explains how the pre-download device 140 sends predictive requests to a web server. The pre-download device analyzes the client requests and responses by the web server and determines which network objects are most likely to be requested. After the determination step, the pre-download device directs the web client to requests these network objects and will store them in the

local cache prior to their actual request (see column 4, lines 20-33). Therefore Kasriel meets the scope of the claimed limitation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey Refai
Examiner
Art Unit 2152

September 18, 2005


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER